IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.740 OF 2000

Shri Nanasaheb Bajirao Tengle
Age 38 years, Occ. Service
and agriculture, R/o Nyayasahayyak
Prayog Shala, Shikh Laboratory
Ganeshkhind, Pune - 39. ....Petitioner.

V/s

1. Shri Khanderao Baburao Dhayagude
Age 60 years, Occ. Agriculture,
R/o Mhasobachi Wadi, Post
Panadare, Tal. Baramati,
Dist. Pune.

2. State of Maharashtra ....Respondents.

None appears for the petitioner.

None appears for respondent No.1.

Mr. Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.
DATE: 3rd February, 2006

ORAL JUDGMENT:

1. None appears for the petitioner. None appears for respondent No.1. Even on the last occasion, none appeared on behalf of respondent No.1.

2. The petitioner is challenging the order of isssuance of process passed by the Judicial Magistrate, First Class, Baramati on a complaint which was filed by respondent No.1 under section 138 of the Negotiable Instruments Act.

3. On perusal of the petition, the only ground on which the issuance of process is being challenged is that the statutory demand notice was issued before the expiry of 15 days from the date of dishonour of the cheque and, therefore, the Magistrate could not have taken cognizance of the complaint as the statutory period of 15 days was not over. There is no substance in the ground which is raised by the petitioner in the petition. The Supreme Court has now held that even if the notice of dishonour of cheque is issued before the expiry of 15 days, the complaint can be lodged and if the cognizance of the complaint is taken after expiry of 15 days, the process which is issued in such a complaint cannot be challenged on that ground. In the present case, the cognizance was taken some time on 1/1/1996. Thus, though the notice was given before expiry of 15 days from the date of dishonour of the cheque, the cognizance was taken by the Magistrate on 1/1/1996 i.e. after the expiry of 15 days. Therefore, there is no substance in the ground raised in the petition. The petition, therefore, is liable to be dismissed.

4. Accordingly, Writ Petition is dismissed. Rule is discharged. Interim orders passed by this Court are

vacated. The Trial Court is directed to decide the Criminal Case as expeditiously as possible and, in any case, within a period of six months.

V.M. KANADE, J.